# APPENDIX

**47 U.S.C. 153, subsections (a)-(g), (k) and (v), being a portion of section 3 of the Communications Act of 1934, 48 Stat. 1065, as amended 50 Stat. 189, 60 Stat. 1352.**

§ 153. Definitions.

For the purposes of this chapter, unless the context otherwise requires—

(a) "Wire communication" or "communication by wire" means the transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

(b) "Radio communication" or "communication by radio" means the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

(c) "Licensee" means the holder of a radio station license granted or continued in force under authority of this chapter.

(d) "Transmission of energy by radio" or "radio transmission of energy" includes both such transmission and all instrumentalities, facilities, and services incidental to such transmission.

(e) "Interstate communication" or "interstate transmis-

sion" means communication or transmission (1) from any State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia, to any other State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia, (2) from or to the United States to or from the Canal Zone, insofar as such communication or transmission takes place within the United States, or (3) between points within the United States but through a foreign country; but shall not include wire communication between points within the same State, Territory, or possession of the United States, or the District of Columbia, through any place outside thereof, if such communication is regulated by a State commission.

(f) "Foreign communication" or "foreign transmission" means communication or transmission from or to any place in the United States to or from a foreign country, or between a station in the United States and a mobile station located outside the United States.

(g) "United States" means the several States and Territories, the District of Columbia, and the possessions of the United States, but does not include the Canal Zone.

* * *

(k) "Radio station" or "station" means a station equipped to engage in radio communication or radio transmission of energy.

* * *

(v) "State" includes the District of Columbia and the Territories and possessions.

* * *

**47 U.S.C. 606, subsections (c), (d) and (f), being a portion of section 606 of the Communications Act of 1934, 48 Stat. 1104, as amended 56 Stat. 18, 56 Stat. 1096, 61 Stat. 449.**

§ 606. War powers of President.

* * *

(c) Upon proclamation by the President that there exists war or a threat of war or a state of public peril or disaster or other national emergency, or in order to preserve the neutrality of the United States, the President may suspend or amend, for such time as he may see fit, the rules and regulations applicable to any or all stations within the jurisdiction of the United States as prescribed by the Commission, and may cause the closing of any station for radio communication and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station and/or its apparatus and equipment by any department of the Government under such regulations as he may prescribe, upon just compensation to the owners.

(d) Upon proclamation by the President that there exists a state or threat of war involving the United States, the President, if he deems it necessary in the interest of the national security and defense, may, during a period ending not later than six months after the termination of such state or threat of war and not later than such earlier date as the Congress by concurrent resolution may designate, (1) suspend or amend the rules and regulations applicable to any or all facilities or stations for wire communication within the jurisdiction of the United States as prescribed by the Commission, (2) cause the closing of any facility or station for wire communication and the removal therefrom of its apparatus and equipment, or (3) authorize the use or control of any such facility or station and its apparatus and equipment by any department of the Government under such regulations as he may prescribe, upon just compensation to the owners.

* * *

(f) Nothing in subsection (c) or (d) shall be construed to amend, repeal, impair, or affect existing laws or powers of the States in relation to taxation or the lawful police regulations of the several States, except wherein such laws,

powers, or regulations may affect the transmission of Government communications, or the issue of stocks and bonds by any communication system or systems.

* * *

**Section 5455, Revised Laws of Hawaii 1945, as amended by Acts 100 and 253, Session Laws of Hawaii 1945, and Acts 111 and 113 of the Session Laws of Hawaii 1947.**

**Sec. 5455. Imposition of tax.** There is hereby levied and shall be assessed and collected annually privilege taxes against the persons on account of their business and other activities in this Territory measured by the application of rates against values, gross proceeds of sales or gross income, as the case may be, as follows:

**A. Tax on manufacturers.** (1) Upon every person engaging or continuing within this Territory in the business of manufacturing, compounding, canning, preserving, packing, milling, processing, refining or preparing for sale, profit or commercial use, either directly or through the activity of others, in whole or in part, any article or articles, substance or substances, commodity or commodities, the amount of such tax to be equal to the value of the articles, substances, or commodities, manufactured, compounded, canned, preserved, packed, milled, processed, refined or prepared, for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same (except as hereinafter provided), multiplied by the respective rates as follows:

Millers or processors of sugar, raw or refined, two and one-half per cent; canneries, two and one-half per cent; all manufacturers on whose gross income a tax is not otherwise levied in this chapter, one and one-half per cent.

[Pars. (2)-(6) relating to manufacturers, omitted.]

**B. Tax on business of selling tangible personal property; producing.** (1) Upon every person engaging or continuing within this Territory in the business of selling any tangible personal property whatsoever (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied, and shall be assessed and collected, a tax equivalent to two and one-half per cent of the gross proceeds of sales of business; *provided,* however, that in the case of a wholesaler, the tax shall be equal to one per cent of the gross proceeds of sales of the business, and in the case of a producer, the tax shall be equal to one and one-half per cent of the gross proceeds of sales of the business.

[Pars. (2)-(6), relating to selling and manufacturing, omitted.]

**C. Tax upon contractors.** (1) Upon every person engaging or continuing within this Territory in the business of contracting, the tax shall be equal to two and one-half per cent of the gross income of the business. *Provided,* however, that the rate of tax levied upon any such person measured by gross income received on account of uncompleted contracts, entered into prior to the effective date of this chapter, shall be eight-tenths of one per cent. All contracts shall be prima facie presumed to have been entered into subsequent to the effective date of this chapter.

[Pars. (2) and (3), relating to contracting, omitted.]

**D. Tax upon theaters, amusements, radio broadcasting stations, etc.** Upon every person engaging or continuing within this Territory in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, radio broadcasting station or any other place at which amusements are offered to the public, the tax shall be equal to two and one-half per cent of the gross income of the business.

**D-1. Tax upon sales representatives, etc.** Upon every person classified as a representative or purchasing agent by chapter 98.01, engaging or continuing within this Territory in the business of performing services for another, other than as an employee, there is likewise hereby levied and shall be assessed and collected a tax equal to two and one-half per cent of the commissions and other compensation attributable to the services so rendered by him.

**E. Tax on service business.** Upon every person engaging or continuing within this Territory in any service business or calling not otherwise specifically taxed under this chapter, there is likewise hereby levied and shall be assessed and collected a tax equal to two and one-half per cent of the gross income of any such business.

**F. Professions.** Upon every person engaging or continuing within this Territory in the practice of a profession, including those expounding the religious doctrines of any church, there is likewise hereby levied and shall be assessed and collected a tax equal to two and one-half per cent of the gross income of such practice or exposition.

**G. Tax on other business.** Upon every person engaging or continuing within this Territory in any business, trade, activity, occupation, or calling not included in the preceding subsections or any other provisions of this chapter, there is likewise hereby levied and shall be assessed and collected, a tax equal to two and one-half per cent of the gross income thereof. This subsection shall apply to the gross income of persons taxable under other subsections hereof not derived from the exercise of privileges taxable thereunder.

**Rule 10, Court of Appeals for the Ninth Circuit, being the same as the former Rule 11.**

## APPEALS, RETURN AND RECORD

1. In all cases on appeal or review, civil or criminal, the clerk of the trial court or commission shall transmit to the

clerk of this court the original files designated by the respective parties as the record on appeal or review.

2. In cases prosecuted in forma pauperis, or when the appellant* is permitted to prosecute his appeal on a typewritten transcript, the record to be furnished to the clerk of this court shall be in typewritten form, upon paper 8 inches by 10½ inches, and bound on the left margin. In addition to the certified original, three identical *clearly legible and unblurred* copies must be transmitted to this court.

* Whenever the word "appellant" is used in these rules it includes "petitioner" and the word "appellee" includes "respondent."

**Rule 17, Court of Appeals for the Ninth Circuit, being the same as the former Rule 19.**

## PRINTING RECORDS

1. Records shall be printed under the supervision of the clerk of this court. Each party shall pay the estimated expense of printing the portions of the record he designates. The clerk is charged with the duty of having the printing done at reasonable rates, and he shall promptly cause an estimate to be made of the expense of printing the record and his fee for preparing it for the printer and supervising the printing, and shall notify the parties in the case of the amount of the estimate of the portions of the record designated by each party, which amounts must be paid within ten days. If the estimated expense is not paid as provided in this rule, it shall be the duty of the clerk to report that fact to the court, and if the appellant is in default the cause will be dismissed unless good cause to the contrary is shown. In such instance, the clerk shall notify the counsel for the defaulting party of the date on which the matter will be presented to the court. In cases appealed from the District Courts of Alaska, Hawaii and Guam, and the Supreme Court of the Territory of Hawaii, the clerk of this court

shall fix the time for payment of deposit for printing the transcript.

2. Upon payment of the amount estimated by the clerk, 60 copies of the record shall be printed, under his supervision, for the use of the court and of counsel.

3. In all cases, the clerk of this court shall prepare the record for the printer, index the same, supervise the printing, and distribute the printed copies to the judges and one or more printed copies to the counsel for the respective parties.

4. If the expense of printing and supervision shall be less than the amount estimated and paid, the clerk shall refund the difference to the party paying same. If the expense is greater than the estimate, the amount of such excess shall be paid to the clerk before he shall file the printed record or deliver copies to the parties or their counsel.

5. In case of reversal, affirmance, or dismissal, with costs, the amount paid for printing the record and the clerk's fee shall be taxed against the party against whom costs are given.

6. In all cases, including those on petition for review to enforce or to set aside an order of a United States Board or Commission, the appellant or petitioner, upon the filing of the record in this court, shall file with the clerk a concise statement of the points on which he intends to rely. With such statement the appellant or petitioner shall file a designation of all of the record which is material to the consideration of the appeal or review and forthwith serve on the adverse party a copy of the statement and designation. The adverse party, within 10 days thereafter, may designate in writing filed with the clerk, additional parts of the record which he thinks material; and if he shall not do so, he shall be held to have consented to a hearing on the parts designated. If parts of the record shall be so designated by one or both of the parties, or if such parts be distinctly designated

by stipulation of counsel for the respective parties, the clerk shall print those parts only; and the court will consider nothing but those parts of the record and the points so stated. If at the hearing it shall appear that any material part of the record has not been printed, the appeal may be dismissed, or such other order made as the circumstances may appear to the court to require. If the appellee shall have caused unnecessary parts of the record to be printed, such order as to costs may be made as the court shall think proper.

All statements and stipulations filed hereunder shall distinctly and accurately refer to the pages of the original certified record as well as the documents to be printed or omitted.

7. At the time of filing the record and docketing the cause, counsel for the appellant in patent cases may furnish the clerk with copies of Patent Office drawings and specifications to be used as inserts, and the same, if in proper form and of convenient use, shall be used in printing the record.

8. In all cases prosecuted to this court in which records or other matter shall be printed under the supervision of the clerk of this court, his fee for preparing the same for the printer, supervising the printing, indexing and distributing the copies shall be 25 cents for each printed page of the record and index provided that the fee for any single record and index shall not exceed $250.00.

OFFICE OF THE CLERK
SUPREME COURT, TERRITORY OF HAWAII
HONOLULU

GUS K. SPROAT
MRS. LEOTI V. KRONE
CLERKS

July 14, 1953

Hon. Paul P. O'Brien
Clerk, U. S. Court of Appeals for the Ninth Circuit
San Francisco, California

RE: J. Elroy McCaw and John D. Keating, plaintiffs-plaintiffs in error v. The Tax Commissioner of the Territory of Hawaii, Earl W. Fase, defendant-defendant in error, L. 21340, Supreme Court No. 2898

Dear Mr. O'Brien:

We are depositing in the mail today our ORIGINAL files, consisting of two volumes, original transcripts of evidence, and exhibits in the above-entitled cause, pursuant to the stipulation between counsel and approved by Chief Justice Towse on June 8, 1953.

As you will note, our files contain an index of the documents contained in each. You will also note the folders containing the exhibits and transcripts are numbered and their contents noted on the flap of the envelope-folder, as follows:

Folder No. 1 contains Plaintiffs' Exhibits A-1 to Q, inclusive;

Folder No. 2 contains Plaintiffs' Exhibits R-1 to V-2, inclusive;

Folder No. 3 contains Defendant's Exhibits 1 to 12, inclusive;

Folder No. 4 contains Defendant's Exhibits 13 to 18, inclusive;

Folder No. 5 contains Defendant's Exhibits 19 to 29, inclusive;

Folder No. 6 includes Defendant's Exhibits 30 to 60-b, inclusive;

Folder No. 7 contains Volumes I to IV, inclusive, of original transcripts of evidence No. 1182;

Folder No. 8 contains Volumes V to 11, inclusive, of original transcripts of evidence No. 1182 and one small transcript numbered 1181.

This original record is going forward to you by registered air mail, return receipt requested by air, and special delivery.

When this case has been determined by your court, please return the above files and records to us as soon as possible, notifying us when you have done so.

We are transmitting to you herein Mr. Ingman's check for $25, to cover the docket fee in this case.

Thank you for your courtesies and consideration in these matters.

Very truly yours,

(Mrs.) Leoti V. Krone
Dep. Chief Clerk Supreme Court

encl.
cc: D. N. Ingman
Kenneth Davis
Rhoda V. Lewis, Dep. Atty. Gen.

(R. 150, Supplemental Transcript of Record, not printed)

IN THE

UNITED STATES COURT OF APPEALS

For the Ninth Circuit

| | |
|---|---|
| J. Elroy McCaw and John D. Keating, *Appellants,* vs. The Tax Commissioner of the Territory of Hawaii, Earl W. Fase, *Appellee.* | No. 13920 UPON APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF HAWAII |

**MOTION by APPELLANTS to**

**(1) To Consolidate this Appeal with Cause number 12900.**

**(2) To Dispense with the Printing of the Record in this Appeal, 13920.**

APPELLANTS respectfully move this Court for an ORDER (1) permitting the consolidation of this appeal with No. 12900, which was continued by stipulation pending the appeal of this case, and FURTHER, for an ORDER

(2) permitting the Appellants to dispense with the printing of the Record in this appeal, No. 13920, on the grounds that the same Territorial Act is involved, and since the Original papers can be examined and used in this appeal, the printing of the Record in this appeal would be unnecessarily burdensome and would serve no useful purpose. Especially is this so, since the Points on Appeal would be included in the printed briefs.

Kenneth Davis and David N. Ingman
Attorneys for the Appellants.
By /s/ Kenneth Davis

(R. 151, Supplemental Transcript, not printed)

No. 13920

IN THE

UNITED STATES COURT OF APPEALS

For the Ninth Circuit

| | |
|---|---|
| J. ELROY MCCAW AND JOHN D. KEATING,<br>*Appellants,*<br>vs.<br>THE TAX COMMISSIONER OF THE TERRITORY OF HAWAII, EARL W. FASE,<br>*Appellee.* | UPON APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF HAWAII. |

## APPELLEE'S OBJECTIONS TO APPELLANTS' MOTION OF JULY 30, 1953.

Comes now EARL W. FASE, Tax Commissioner of the Territory of Hawaii, appellee herein, by Rhoda V. Lewis, Deputy Attorney General of the Territory of Hawaii, and hereby (A) objects to the granting of appellants' motion to dispense with the printing of the record in No. 13920, and (B) takes the position that the consolidation of No. 13920 with No. 12900 is premature and in any event should only be a consolidation *for argument*. In support of said objections appellee presents:

1. That appellants' motion to dispense with the printing of the record in No. 13920 fails to set forth any valid grounds for the granting thereof.

2. That as appears from the record in No. 12900:

(a) No. 12900 was appealed from the United States District Court, where it was dismissed without prejudice at the threshold of the case for the reason that the case belonged in the territorial courts. There was no trial of No. 12900 in

the United States District Court, and the court did not reach or decide any of the motions for summary judgment. (No. 12900, R. 159-160, 466-471.)

(b) On August 18, 1952 No. 12900 was duly set for argument on October 3, 1952 (Clerk's notice dated August 18, 1952), whereupon by a stipulation approved and filed on or about September 16, 1952, the parties stipulated that No. 12900 "be taken off the calendar and continued on the docket of this Court without being reassigned for hearing, until disposition in the courts of the Territory of Hawaii of the similar litigation there pending and now in the Supreme Court of Hawaii as Supreme Court No. 2898, and until the perfecting of an appeal therefrom and completion of briefs in such appeal in this Court, or alternatively until the expiration of the time for such appeal and briefs."

(c) In appellee's brief in No. 12900 in this court, filed April 10, 1952, appellee had argued that the District Court rightly dismissed the case, that in any event No. 12900 involves only the question whether the case should have been dismissed or should have been held in the District Court awaiting the outcome of litigation in the territorial courts, and that No. 12900 could not resolve the merits of the litigation (No. 12900, Br. for appellee, pp. 2, 32). Appellee had suggested in said brief that disposition of No. 12900 might be deferred pending final disposition of the similar litigation in the territorial courts (No. 12900, Br. for appellee, pp. 2-3, 33).

(d) The litigation in the territorial courts, referred to in said brief and in the stipulation which followed, was and is a case instituted by appellants in the Circuit Court of the Territory and there tried, resulting in findings of facts and a decision on the merits in favor of appellee, thence taken to the Supreme Court of Hawaii by writ of error and there affirmed, and now docketed in this Court as No. 13920, the above entitled cause.

3. That by the stipulation filed September 16, 1952 in No. 12900 appellants in effect elected to bring before the Court the record in No. 13920 before pressing for a decision on the merits. By its motion to dispense with printing of the record in No. 13920 appellants in effect now elect not to bring before the Court the record in No. 13920 and to rely solely on No. 12900. The only appropriate motion in the circumstances would have been one to dismiss the appeal in No. 13920, for no grounds are shown for granting of the motion to dispense with printing of the record in No. 13920.

4. That appellee has no objection to consolidation of No. 13920 with No. 12900 at the proper time, which will be after the printing of the record in No. 13920 and the completion of the briefs in No. 13920. Consolidation of the two cases is premature at this time. In any event, the consolidation should only be *for argument*. By the stipulation filed in No. 12900 on or about September 16, 1952, it was agreed that No. 13920 (described as the appeal from Supreme Court No. 2898) would be separately briefed, and appellants' motion indicates that appellants so understand the matter.

Dated at Honolulu, T. H., August 4, 1953.

EARL W. FASE, Tax Commissioner
of the Territory of Hawaii, Appellee
By /s/ Rhoda V. Lewis
Deputy Attorney General

(R. 153, Supplemental Transcript of Record, not printed)

## UNITED STATES COURT OF APPEALS
## FOR THE NINTH CIRCUIT

**Excerpt from Proceedings of**

**Wednesday, August 12, 1954.**

**Before: HEALY and ORR, Circuit Judges.**

**No. 13920**

### ORDER DENYING MOTION

**ORDERED** motion of appellants to consolidate appeal in the above cause with cause No. 12900, and to dispense with the printing of the transcript of record in case No. 13920, denied.

(R. 158, Supplemental Transcript of Record, not printed)

IN THE

UNITED STATES COURT OF APPEALS

For the Ninth Circuit

| | |
|---|---|
| J. ELROY MCCAW AND JOHN D. KEATING, *Appellants,* vs. THE TAX COMMISSIONER OF THE TERRITORY OF HAWAII, EARL W. FASE, *Appellee.* | No. 13920 UPON APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF HAWAII. |

## APPELLANTS' DESIGNATION OF RECORD OF APPEAL

Appellants designate that the following portions of the record be prepared for the printed transcript of record on appeal, unless the Court dispenses with the same, on motion duly made therefor:

1. Amended Complaint
2. Answer and Cross-Complaint
3. Replication
4. Decision of the Circuit Court
5. Opinion of the Supreme Court of Hawaii
6. Statement of Points, filed June 8th, 1953, and now adopted by Appellants as their Points of Appeal in the case in this Court, Numbered 1 to 23 inclusive.

Dated this 30th day of July, 1953.

Kenneth Davis AND David N. Ingman
Attorneys for Appellants.
By /s/ Kenneth Davis

(R. 159, Supplemental Transcript of Record, not printed)

Law No. 21340

# IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT, TERRITORY OF HAWAII

AT TERM — IN LAW

J. ELROY MCCAW AND JOHN D. KEATING,
*Complainants,*

v.

THE TAX COMMISSIONER OF THE TERRITORY OF HAWAII, TORKEL WESTLY,
*Defendant.*

ACTION TO RECOVER EXCISE TAXES PAID UNDER PROTEST

## PROPOSED FINDINGS AND CONCLUSIONS SUBMITTED BY THE TAX COMMISSIONER

/s/ Jan 11, 1952
Rcpt acknowledged
David N. Ingman

(stamped) Filed
At 11:00 o'Clock AM
Jan 11, 1952

/s/ J. V. Lee
Clerk

RHODA V. LEWIS
*Deputy Attorney General*
Territory of Hawaii
*Attorney for Defendant.*

Law No. 21340

IN THE CIRCUIT COURT OF THE
FIRST JUDICIAL CIRCUIT,
TERRITORY OF HAWAII

AT TERM IN LAW

J. ELROY MCCAW AND JOHN D. KEATING,
*Complainants,*
v.
THE TAX COMMISSIONER OF THE TERRITORY OF HAWAII, TORKEL WESTLY,
*Defendant.*

ACTION TO RECOVER EXCISE TAXES PAID UNDER PROTEST

## PROPOSED FINDINGS AND CONCLUSIONS SUBMITTED BY THE TAX COMMISSIONER

1. In so far as places outside the Territory of Hawaii are concerned, KPOA's broadcasts on its standard band do not afford effective or satisfactory service that measures up to the standards for commercial coverage.

2. Time buyers do not buy time on KPOA as a medium of communication to an out-of-the Territory audience.

3. Where a KPOA broadcast is directed to an out-of-the Territory audience a shortwave relay is used, as in the case of the program "Hawaii Calls."

4. The tax has not been assessed on any receipts from broadcasts carried out of the Territory by shortwave relay or brought into the Territory by shortwave relay.

5. During daylight hours enjoyable listening to KPOA's standard band broadcasts is impossible at places outside the Territory, and is limited to ships or planes that happen to be within range.

6. During hours of darkness reception of KPOA's standard band broadcasts outside the Territory is too unreliable and irregular for such reception to have commercial value.

7. KPOA has a "foreign language department" which is offered by it as a service to advertisers. This department conducts, each broadcast day, a substantial number of hours of broadcasts in Japanese and in a Filipino dialect. These broadcasts are scheduled by the station each day on a participating basis, that is, the station puts on the foreign language programs and sponsors buy spot announcements on the programs.

8. A large number of KPOA time buyers have no desire or occasion to reach any audience outside the Territory, even if effective and satisfactory service were offered.

9. The radio audience outside the Territory of Hawaii is not a factor in the selling or buying of radio time on station KPOA, where no shortwave relay is employed.

10. The sale of radio time to Willie Saaga, shown by plaintiffs' Exhibit L, is an exceptional instance, and the Tax Commissioner was not obliged to take notice of this exceptional instance unless it was called to his attention. Before the tax assessments were made KPOA was given an opportunity to make such showing but did not do so and is not now entitled to a deduction for this sale.

11. The territorial tax law has been and is properly interpreted and applied by the Tax Commissioner and the tax law and assessments made thereunder are valid.

12. The plaintiffs are not entitled to recover the taxes paid under protest and the Tax Commissioner is entitled to judgment on his counterclaim.

DATED at Honolulu, T. H., this 11th day of January, 1952.

Respectfully submitted,

/s/ Rhoda V. Lewis
*Deputy Attorney General*
*Attorney for the Tax Commissioner*
*Defendant.*

*I do hereby certify that the foregoing is a full, true and correct copy of the original on file in this office.*

/s/ W. C. Ing
*Clerk, Circuit Court, First Circuit,*
*Territory of Hawaii.*

(Record of Supreme Court of Hawaii, pp. 127-130.)